THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19725 OF 2005

ORDER:

The petitioner is the proprietor of Saptagiri Oil Rotary and Flour Mill in Mandala Indla Village, Chevireddypalli Grampanchayat, Venkatagiri Mandal, Nellore District.

According to him, he obtained necessary permission from the Department of Industries, Medical & Health and also obtained permission from the Gram Panchayat before establishing the Oil Mill in 1993. The villagers of the Gram Panchayat appears to have made a complaint to the Gram Panchayat about the environmental pollution and sound pollution caused by the petitioner's Mill. Therefore, by Resolution No.13 dated 17.6.2003 Chevireddypalli Gram Panchayat directed the petitioner to shift the Mill from the existing place to any other place. Though the resolution was passed on 17.6.2003 the same was not implemented. One Madana Ramamurthy, a resident of the said village, filed a Writ Petition being W.P.No.3918 of 2004 before this Court seeking a direction to the Gram Panchayat to implement the Resolution No.13. The same was opposed by the petitioner herein who was arrayed as respondent No.4 in the said Writ Petition. After considering the merits of the case, this Court by order dated 18.08.2005 disposed of the Writ Petition directing the Gram Panchayat to give effect to the Resolution No.13 dated 17.6.2003. In the meanwhile, Chevireddypalli Gram Panchayat and other villages were constituted as Venkatagiri Municipality, the 2nd respondent herein. By impugned notice dated 12.8.2005 the 2nd respondent directed the petitioner to shift/remove Saptagiri Oil Rotary and Flour Mill from the existing place. The petitioner was also informed that if he fails to do so, the Municipality will remove the same and would collect the costs of removal from the petitioner. Aggrieved by the action of the 2nd respondent, the petitioner is before this court again seeking a Writ of Mandamus declaring the impugned notice as illegal and arbitrary.

The learned counsel for the petitioner Sri R. Ramanjaneyulu contends that the Gram Panchayat did not issue any notice before passing the resolution, that the Gram Panchayat has not initiated any action against the four other Oil Mills in the vicinity, that resolution passed by the Gram Panchayat is without any reason, and, lastly that in the earlier Writ Petition these questions were not gone into.

After perusing the Judgment of this Court in W.P.No.3918 of 2004 dated 18.8.2005, this Court is not able to agree with the submission of the learned counsel for the petitioner that the legality of the resolution was not gone into in the earlier Writ Petition. This Court referred to the contentions raised by the petitioner herein as respondent No.4. He contended therein that the Resolution No.13 of the Gram Panchayat is not legal and proper and the same cannot be given effect to. This

Court rejected the said submissions holding that under Section 122 of the A.P. Panchayat Raj Act, 1994 empowers the Gram Panchayat to issue necessary directions to the persons causing nuisance, and therefore, the resolution of the Gram Panchayat was valid. Accordingly this Court directed the Gram Panchayat to implement the resolution.

Now that the Gram Panchayat is merged with the Municipality, the 2nd respondent issued the impugned notice, and therefore, this Court does not find any infirmity in the action taken by the 2nd respondent. This Writ Petition is misconceived and is devoid of merits.

The Writ Petition is accordingly dismissed.

V.V.S. RAO, J.

6th September, 2005.

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